

HUD, with adjustments for smaller and larger families).

[61 FR 8815, Mar. 5, 1996, as amended at 64 FR 13057, Mar. 16, 1999]

EFFECTIVE DATE NOTE: At 64 FR 13057, Mar. 16, 1999, in § 984.304 paragraph (a)(2) was amended in the first sentence by removing the phrase "in accordance with regulations set forth in 24 CFR parts 813 and 882." and inserting in its place the phrase "in accordance with the regulations set forth in subpart F of 24 CFR part 5, and subpart K of 24 CFR part 982."; and in the second sentence by removing the phrase "in accordance with the regulations set forth in 24 CFR part 887." and inserting in its place the phrase "in accordance with the regulations set forth in 24 CFR § 982.505." effective Apr. 15, 1999.

#### § 984.305 FSS account.

(a) *Establishment of FSS account—(1) General.* The HA shall deposit the FSS account funds of all families participating in the HA's FSS program into a single depository account. The HA must deposit the FSS account funds in one or more of the HUD-approved investments.

(2) *Accounting for FSS account funds—(i) Accounting records.* The total of the combined FSS account funds will be supported in the HA accounting records by a subsidiary ledger showing the balance applicable to each FSS family. During the term of the contract of participation, the HA shall credit periodically, but not less than annually, to each family's FSS account, the amount of the FSS credit determined in accordance with paragraph (b) of this section.

(ii) *Proration of investment income.* The investment income for funds in the FSS account will be prorated and credited to each family's FSS account based on the balance in each family's FSS account at the end of the period for which the investment income is credited.

(iii) *Reduction of amounts due by FSS family.* If the FSS family has not paid the family contribution towards rent, or other amounts, if any, due under the public housing or section 8-assisted lease, the balance in the family's FSS account shall be reduced by that amount (as reported by the owner to the HA in the Section 8 FSS program) before prorating the interest income. If the FSS family has fraudulently under-

reported income, the amount credited to the FSS account will be based on the income amounts originally reported by the FSS family.

(3) *Reporting on FSS account.* Each HA will be required to make a report, at least once annually, to each FSS family on the status of the family's FSS account. At a minimum, the report will include:

(i) The balance at the beginning of the reporting period;

(ii) The amount of the family's rent payment that was credited to the FSS account, during the reporting period;

(iii) Any deductions made from the account for amounts due the HA before interest is distributed;

(iv) The amount of interest earned on the account during the year; and

(v) The total in the account at the end of the reporting period.

(b) *FSS credit—(1) Computation of amount.* For purposes of determining the FSS credit, "family rent" is: for the public housing program, the total tenant payment as defined in 24 CFR subpart F of 24 CFR part 5; for the rental certificate program, the total tenant payment as defined in 24 CFR subpart F of 24 CFR part 5; and for the rental voucher program, 30 percent of adjusted monthly income. The FSS credit shall be computed as follows:

(i) For FSS families who are very low-income families, the FSS credit shall be the amount which is the lesser of:

(A) Thirty percent of current monthly adjusted income less the family rent, which is obtained by disregarding any increases in earned income (as defined in § 984.103) from the effective date of the contract of participation; or

(B) The current family rent less the family rent at the time of the effective date of the contract of participation.

(ii) For FSS families who are low-income families but not very low-income families, the FSS credit shall be the amount determined according to paragraph (b)(1)(i) of this section, but which shall not exceed the amount computed for 50 percent of median income.

(2) *Ineligibility for FSS credit.* FSS families who are not low-income families shall not be entitled to any FSS credit.

(3) *Cessation of FSS credit.* The HA shall not make any additional credits to the FSS family's FSS account when the FSS family has completed the contract of participation, as defined in § 984.303(g), or when the contract of participation is terminated or otherwise nullified.

(c) *Disbursement of FSS account funds—(1) General.* The amount in an FSS account, in excess of any amount owed to the HA by the FSS family, as provided in paragraph (a)(3)(iii) of this section, shall be paid to the head of the FSS family when the contract of participation has been completed as provided in § 984.303(g), and if, at the time of contract completion, the head of the FSS family submits to the HA a certification, as defined in § 984.103, that, to the best of his or her knowledge and belief, no member of the FSS family is a recipient of welfare assistance.

(2) *Disbursement before expiration of contract term.* (i) If the HA determines that the FSS family has fulfilled its obligations under the contract of participation before the expiration of the contract term, and the head of the FSS family submits a certification that, to the best of his or her knowledge, no member of the FSS family is a recipient of welfare assistance, the amount in the family's FSS account, in excess of any amount owed to the HA by the FSS family, as provided in paragraph (a)(3)(iii) of this section, shall be paid to the head of the FSS family.

(ii) If the HA determines that the FSS family has fulfilled certain interim goals established in the contract of participation and needs a portion of the FSS account funds for purposes consistent with the contract of participation, such as completion of higher education (i.e., college, graduate school), or job training, or to meet start-up expenses involved in creation of a small business, the HA may, at the HA's sole option, disburse a portion of the funds from the family's FSS account to assist the family meet those expenses.

(3) *Verification of family certification.* Before disbursement of the FSS account funds to the family, the HA may verify that the FSS family is no longer a recipient of welfare assistance by requesting copies of any documents

which may indicate whether the family is receiving any welfare assistance, and contacting welfare agencies.

(d) *Succession to FSS account.* If the head of the FSS family ceases to reside with other family members in the public housing or the Section 8-assisted unit, the remaining members of the FSS family, after consultation with the HA, shall have the right to designate another family member to receive the funds in accordance with paragraph (c) (1) or (2) of this section.

(e) *Use of FSS account funds for homeownership.* A public housing FSS family may use its FSS account funds for the purchase of a home, including the purchase of a home under one of HUD's homeownership programs, or other Federal, State, or local homeownership programs unless such use is prohibited by the statute or regulations governing the particular homeownership program.

(f) *Forfeiture of FSS account funds—(1) Conditions for forfeiture.* Amounts in the FSS account shall be forfeited upon the occurrence of the following:

(i) The contract of participation is terminated, as provided in § 984.303(e) or § 984.303(h); or

(ii) The contract of participation is completed by the family, as provided in § 984.303(g), but the FSS family is receiving welfare assistance at the time of expiration of the term of the contract of participation, including any extension thereof.

(2) *Treatment of forfeited FSS account funds—(i) Public housing FSS program.* FSS account funds forfeited by the FSS family will be credited to the PHA's operating reserves and counted as other income in the calculation of the PFS operating subsidy eligibility for the next budget year.

(ii) *Section 8 FSS program.* FSS account funds forfeited by the FSS family will be treated as program receipts for payment of program expenses under the HA budget for the applicable Section 8 program, and shall be used in accordance with HUD requirements governing the use of program receipts.

[61 FR 8815, Mar. 5, 1996, as amended at 64 FR 13057, Mar. 16, 1999]

EFFECTIVE DATE NOTE: At 64 FR 13057, Mar. 16, 1999, in § 984.305, paragraph (b)(1) was amended by removing the phrases "part 913"

and "part 813", and inserting in their place the phrase "subpart F of 24 CFR part 5", effective Apr. 15, 1999.

**§ 984.306 Section 8 residency and portability requirements.**

(a) *Relocating FSS family.* For purposes of this section, the term "relocating FSS family" refers to an FSS family that moves from the jurisdiction of an HA at least 12 months after signing its contract of participation.

(b) *Initial occupancy.* A family participating in the Section 8 FSS program must lease an assisted unit, for a minimum period of 12 months after the effective date of the contract of participation, in the jurisdiction of the HA which selected the family for the FSS program. Thereafter, the FSS family may move outside the jurisdiction of the initial HA consistent with the regulations of 24 CFR part 982.

(c) *Portability: relocation but continued participation in the FSS program of the initial HA—(1) General.* A relocating FSS family may continue in the FSS program of the initial HA if the family demonstrates to the satisfaction of the initial HA that, notwithstanding the move, the relocating FSS family will be able to fulfill its responsibilities under the initial or modified contract of participation at its new place of residence. (For example, the FSS family may be able to commute to the supportive services specified in the contract of participation, or the family may move to obtain employment as specified in the contract.)

(2) *Single contract of participation.* If the relocating family remains in the FSS program of the initial HA, there will only be one contract of participation, which shall be the contract executed by the initial HA.

(d) *Portability: relocation and participation in the FSS program of the receiving HA—(1) General.* A relocating FSS family may participate in the FSS program of the receiving HA, if the receiving HA allows the family to participate in its program. An HA is not obligated to enroll a relocating FSS family in its FSS program.

(2) *Two contracts of participation.* If the receiving HA allows the relocating FSS family to participate in its FSS program, the receiving HA will enter into a new contract of participation

with the FSS family for the term on the remaining contract with the initial HA. The initial HA will terminate its contract of participation with the family.

(e) *Single FSS account.* Regardless of whether the relocating FSS family remains in the FSS program of the initial HA or is enrolled in the FSS program of the receiving HA, there will be a single FSS account which will be maintained by the initial HA. When an FSS family will be absorbed by the receiving HA, the initial HA will transfer the family's FSS account to the receiving HA.

(f) *FSS program termination; loss of FSS account; and termination of Section 8 assistance.* (1) If an FSS family that relocates to another jurisdiction, as provided under this section, is unable to fulfill its obligations under the contract of participation, or any modifications thereto, the HA, which is party to the contract of participation, may:

(i) Terminate the FSS family from the FSS program and the family's FSS account will be forfeited; and

(ii) Terminate the FSS family's Section 8 assistance on the ground that the family failed to meet its obligations under the contract of participation.

(2) In the event of forfeiture of the family's FSS account, the funds in the family's FSS account will revert to the HA maintaining the FSS account for the family.

## Subpart D—Reporting

### § 984.401 Reporting.

Each HA that carries out an FSS program under this part shall submit to HUD, in the form prescribed by HUD, a report regarding its FSS program. The report shall include the following information:

(a) A description of the activities carried out under the program;

(b) A description of the effectiveness of the program in assisting families to achieve economic independence and self-sufficiency;

(c) A description of the effectiveness of the program in coordinating resources of communities to assist families to achieve economic independence and self-sufficiency; and